

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS
EASTERN DIVISION**

In re)	
)	
)	
PAUL FRANCIS,)	CHAPTER 7
)	CASE NO. 17-12708-FJB
Debtor.)	
)	
JOHN O. DESMOND, CHAPTER 7)	
TRUSTEE FOR THE ESTATE OF)	
PAUL FRANCIS,)	
)	ADVERSARY PROCEEDING
Plaintiff)	NO. 18-01041-FJB
v.)	
)	
RUTH FRANCIS,)	
)	
Defendant.)	
)	

CHAPTER 7 TRUSTEE’S ANSWER TO DEFENDANT’S COUNTERCLAIMS

John O. Desmond, the Chapter 7 Trustee (the “Trustee”) of the bankruptcy estate of Paul Francis (the “Debtor”) hereby answers Ruth Francis’ (the “Defendant”) purported Counterclaims as follows:

23. The Trustee repeats and realleges as if fully set forth herein his allegations as contained in the Trustee's Adversary Complaint [Docket No. 1].

24. The Trustee denies the allegations contained in paragraph 24 of the Defendant's Answer.

25. The Trustee denies the allegations contained in paragraph 25 of the Defendant's Answer.

26. The Trustee admits that U.S. Trustee Office filed a motion to convert the Debtor's

bankruptcy case to Chapter 7. The Trustee further asserts that the allegations contained in paragraph 26 are irrelevant to the allegations of the Trustee's Adversary Complaint as the Debtor did not file any request to stay the adversary proceeding.

27. The Trustee denies the allegations contained in paragraph 27 of the Defendant's Answer.

According to the Debtor's claims register, there are unsecured claims totaling \$39,305.33. Further answering, upon information and belief, several of the Debtor's secured creditors are undersecured and are likely to have deficiency claims as evidenced by the filing of motions for relief from stay. See Docket Nos. 107 and 110.

28. The Trustee lacks sufficient knowledge or information to form a belief as to the truth of the allegations contained in paragraph 28 of the Defendant's Answer.

29. The Trustee denies the allegations contained in paragraph 29 of the Defendant's Answer.

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FIRST AFFIRMATIVE DEFENSE

The Defendant's counterclaims fail to state a claim upon which relief can be granted as the Defendant has failed to specify any cause of action against the bankruptcy estate.

SECOND AFFIRMATIVE DEFENSE

The Defendant's counterclaims fail to state a claim upon which relief can be granted because the Debtor did not file a motion to stay this Adversary Proceeding pending appeal.

THIRD AFFIRMATIVE DEFENSE

The Defendant's counterclaims are barred under the *Barton* Doctrine.

WHEREFORE, Plaintiff John O. Desmond, Chapter 7 Trustee of the bankruptcy estate of Paul Francis and Defendant-in-Counterclaim, hereby respectfully requests that this Court enter an order:

- a. Dismissing the Defendant Ruth Francis' purported counterclaims and relief requested as set forth in her Answer; and
- b. Granting any other and further relief as the Court deems just and proper.

Respectfully submitted,

**JOHN O. DESMOND, CHAPTER 7
TRUSTEE OF THE ESTATE OF
PAUL FRANCIS,**

By his attorneys,

/s/ Anthony R. Leone

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Dated: June 18, 2018

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Plaintiff)	NO. 18-01041-FJB
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RUTH FRANCIS,)	
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Defendant.)	
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CERTIFICATE OF SERVICE

I, Anthony R. Leone, hereby certify that on the 18th day of June, 2018, a copy of the Chapter 7 Trustee's Answer Defendant's Counterclaims was served through the Court's electronic filing system on all parties registered to receive electronic notice.

/s/ Anthony R. Leone
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